

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: NIERHAUS et al.

Application No.: 10/627,554

Filing Date: 7/25/2003

FOR: SYSTEM AND METHOD FOR
INDICATING A SPEAKER DURING A
CONFERENCE

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)
) Confirmation No.: 3548

) Group Art Unit: 2614

) Examiner: Karen L. Le

) **APPEAL BRIEF**

) Docket No.: 2003P04477US
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Mail Stop Appeal Brief – Patents (via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Final Office Action mailed May 27, 2009 (the "Final Office Action") and the Notice of Panel Decision from Pre-Appeal Brief Review mailed September 2, 2009, rejecting claims 1, 2, 4 through 18, and 20 through 23.

REAL PARTY IN INTEREST

The present application is assigned to Siemens Information and Communication Networks, Inc., 900 Broken Sound Parkway, Intellectual Property Department, Boca Raton, Florida, 33487, U.S.A.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellants, Appellants' legal representative, or assignee, which will directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1, 2, 4 through 18, and 20 through 23 are pending in this application. Claims 3 and 19 have been cancelled. All pending claims stand rejected and are now being appealed.

STATUS OF AMENDMENTS

No amendments are pending or were filed after the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1

Independent claim 1 relates to a method for indicating a speaker during a conference. The method comprises determining a list of participants in a conference (Specification, page 19, lines 9 through 13), determining a sample from the conference (Specification, page 19, lines 13 to 27), determining a first participant from the list that is speaking during the sample (Specification, page 19, lines 13 to 27), determining a second participant from the list that is speaking during the sample (Specification, page 19, lines 13 to 27), providing data indicative of the sample (Specification, page 19, lines 21 to 24), providing data indicative of the first participant and the

second participant (Specification, page 21, lines 4 to 9), displaying a first graphic indication that the first participant is speaking (Specification, page 21, lines 28 to 33, and FIG. 6), and displaying a second graphic indication that the second participant is speaking (Specification, page 21, lines 28 to 33, and FIG. 6). The first graphic indication further indicates a first level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The second graphic indication further indicates a second level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The first level of activity is different than the second level of activity (Specification, page 14, lines 1 through 7), and the second graphic indication is displayed at a same time as the first graphic indication (Specification, page 2, lines 27 to 31, and FIG. 6). Moreover, the first graphic indication comprises an icon having a first size based on the first level of activity (Specification, page 18, lines 11 to 25, and FIG. 6), and the second graphic indication comprises an icon having a second size based on the second level of activity (Specification, page 18, lines 11 to 25, and FIG. 6).

Claim 17

Independent claim 17 relates to a system for indicating a speaker during a conference that comprises a network, at least one client device operably coupled to the network, and a server operably coupled to the network (Specification, page 25, lines 8 to 21). The server is adapted to determine a list of participants in a conference (Specification, page 19, lines 9 through 13), determine a sample from said conference (Specification, page 19, lines 13 to 27), determine a first participant from said list that is speaking during said sample (Specification, page 19, lines 13 to 27), determine a second participant from said list that is speaking during said sample (Specification, page 19, lines 13 to 27), provide data indicative of said sample (Specification, page 19, lines 21 to 24), provide data indicative of said first participant and said second participant (Specification, page 19, lines 21 to 24), display a first graphic indication that said first participant is speaking (Specification, page 21, lines 28 to 33, and FIG. 6), and display a second graphic indication that said second participant is speaking (Specification, page 21, lines 28 to 33, and FIG. 6). The first graphic indication further indicates a first level of activity and the second graphic indication further indicates a second level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The first level of activity is different than the second level of activity

(Specification, page 14, lines 1 through 7, and FIG. 6). The second graphic indication is displayed at a same time as the first graphic indication (Specification, page 2, lines 27 to 31, and FIG. 6). The first graphic indication comprises an icon having a first size based on the first level of activity and the second graphic indication comprises an icon having a second size based on the second level of activity (Specification, page 18, lines 11 to 25, and FIG. 6).

Claim 22

Independent claim 22 relates to a system for indicating a speaker during a conference that comprises a processor, a communication port coupled to said processor and adapted to communicate with at least one device, and a storage device coupled to said processor and storing instructions (Specification, page 25, lines 8 to 21). The instructions are adapted to be executed by the processor to determine a list of participants in a conference (Specification, page 19, lines 9 through 13), to determine a sample from said conference (Specification, page 19, lines 13 to 27), to determine a first participant from said list that is speaking during said sample (Specification, page 19, lines 13 to 27), and to determine a second participant from said list that is speaking during said sample (Specification, page 19, lines 13 to 27). The instructions are further adapted to provide data indicative of said sample (Specification, page 19, lines 21 to 24), provide data indicative of said first participant and said second participant (Specification, page 19, lines 21 to 24), and display a first graphic indication that said first participant is speaking and display a second graphic indication that said second participant is speaking during the sample (Specification, page 21, lines 28 to 33, and FIG. 6). The first graphic indication further indicates a first level of activity and the second graphic indication further indicates a second level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The first level of activity is different than the second level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The second graphic indication is displayed at a same time as the first graphic indication (Specification, page 2, lines 27 to 31, and FIG. 6). The first graphic indication comprises an icon having a first size based on the first level of activity and the second graphic indication comprises an icon having a second size based on the second level of activity (Specification, page 18, lines 11 to 25, and FIG. 6).

Claim 23

The claimed subject matter describes an article of manufacture that comprises a computer readable medium having stored thereon instructions (Specification, page 25, lines 8 to 21). The instructions which, when executed by a processor, cause the processor to determine a list of participants in a conference (Specification, page 19, lines 9 through 13), to determine a sample from the conference (Specification, page 19, lines 13 to 27), to determine a first participant from the list that is speaking during said sample (Specification, page 19, lines 13 to 27), to determine a second participant from the list that is speaking during the sample (Specification, page 19, lines 13 to 27), to provide data indicative of the sample (Specification, page 19, lines 21 to 24), to provide data indicative of said first participant and said second participant (Specification, page 19, lines 21 to 24), to display a first graphic indication that the first participant is speaking (Specification, page 21, lines 28 to 33, and FIG. 6), and to display a second graphic indication that said second participant is speaking (Specification, page 21, lines 28 to 33, and FIG. 6).

The first graphic indication further indicates a first level of activity. The second graphic indication further indicates a second level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The first level of activity is different than the second level of activity (Specification, page 14, lines 1 through 7, and FIG. 6). The second graphic indication is displayed at a same time as the first graphic indication (Specification, page 2, lines 27 to 31, and FIG. 6). Moreover, the first graphic indication comprises an icon having a first size based on the first level of activity, and the second graphic indication comprises an icon having a second size based on the second level of activity (Specification, page 18, lines 11 to 25, and FIG. 6).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 2, 4 through 18, and 20 through 23 are rejected under 35 U.S.C. §103(a) as allegedly anticipated by U.S. Patent Publication No. 2003/0158900 (“Santos”) in view of U.S. Patent Publication No. 2004/0250201 (“Caspi”).

ARGUMENT

Each of independent claims 1, 17, 22, and 23 recites displaying a first graphic indication that a first participant is speaking, and displaying a second graphic indication that a second participant is speaking. The first graphic indication comprises an icon having a first size based on a first level of activity of the first participant, and the second graphic indication comprises an icon having a second size based on a second level of activity of the second participant.

The Final Office Action alleges that Santos discloses graphical indication of a first level of activity and a second level of activity. Specifically, the Final Office Action, on page 3, alleges that FIG. 3 of Santos, discloses a first level of activity (i.e., speaking) which is different than a second level of activity (i.e., active). However, “speaking” and “active” are merely different types of statuses and do not reflect different levels of activity. For example, at FIG. 3, Santos discloses a plurality of status indicators associated with different participants. The plurality of status indicators indicate statuses such as speaking, active, listen only, hold, dialing, and absent.

As stated in MPEP 2111.01, the words of a claim must be given their “plain meaning” unless such meaning is inconsistent with the specification. In its current context, the term “level” is a noun, and according to Webster’s Dictionary (*Webster’s Ninth New Collegiate Dictionary*, 1983), the plain meaning of the term “level” is “a position in a scale or rank (as of value, significance, importance, or achievement)”.

Clearly, Santos discloses many different types of statuses but, in view of the plain meaning of the word level, nowhere does Santos disclose or suggest graphic indications of different levels of such statuses.

Furthermore, the Final Office Action, on page 3, concedes that Santos does not teach an icon having a first size based on a first level of activity, and a second graphic indication that comprises an icon having a second size based on a second level of activity.

Caspi discloses a document 381 that comprises icons (e.g., icons 382 and 384) to indicate annotations made by providers (i.e., users) within the document. The icons may exhibit different shapes or sizes, and each icon is associated with a provider to indicate a specific provider of the annotation. Caspi simply discloses icons that distinguish between different providers but does not disclose that different icon sizes are used to distinguish between different providers. Therefore, nowhere does Caspi disclose or suggest different icon sized to distinguish between different levels of providers.

Since Caspi and Santos do not disclose or suggest a “level of activity” consistent with the plain meaning of the term level, nor basing a size of an icon on a level of activity, the art of record cannot be seen to disclose or to suggest displaying a first graphic indication that a first participant is speaking, and displaying a second graphic indication that a second participant is speaking, where the first graphic indication comprises an icon having a first size based on a first level of activity of the first participant, and the second graphic indication comprises an icon having a second size based on the second level of activity of the second participant.

Therefore, independent claims 1, 17, 22, and 23 and their related dependent claims are believed to be in condition for allowance.

CONCLUSION

For the reasons stated above, the Examiner's rejections of claims are improper. Therefore, Appellants respectfully request that the Examiner's rejections be reversed.

If any issues remain, or if the Examiner or the Board has any further suggestions for expediting allowance of the present application, kindly contact the undersigned using the information provided below.

Respectfully submitted,

September 23, 2009
Date

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APPENDIX A - CLAIMS

1. A method for indicating a speaker during a conference, comprising:
 - determining a list of participants in a conference;
 - determining a sample from said conference;
 - determining a first participant from said list that is speaking during said sample;determining a second participant from said list that is speaking during said sample;
 - providing data indicative of said sample;
 - providing data indicative of said first participant and said second participant;
 - displaying a first graphic indication that said first participant is speaking, wherein the first graphic indication further indicates a first level of activity;
 - displaying a second graphic indication that said second participant is speaking, wherein the second graphic indication further indicates a second level of activity, wherein the first level of activity is different than the second level of activity, wherein the second graphic indication is displayed at a same time as the first graphic indication, wherein the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.
2. The method of claim 1, wherein said determining a participant from said list that is speaking during said sample includes determining an active channel in said sample and determining a speaker associated with said active channel.
3. (Cancelled)
4. The method of claim 1, further comprising:
 - determining at least one active channel in said conference.
5. The method of claim 4, wherein said determining at least one active channel includes determining significance of a plurality of channels in said conference and selecting said at least one active channel from said plurality of channels.

6. The method of claim 4, wherein said determining a sample from said conference includes determining a sample from said at least one active channel.
7. The method of claim 1, wherein said providing data indicative of said sample includes providing a sample of voice data associated with said conference.
8. The method of claim 7, wherein said providing data indicative of said first participant includes providing said data via a first channel and wherein said providing a sample of voice data associated with said conference includes providing said sample of voice data via a second channel.
9. A method of claim 7, wherein said providing data indicative of said first participant includes providing said data to a first client device and wherein said providing a sample of voice data associated with said conference includes providing said sample of voice data to a second client device.
10. The method of claim 1, further comprising:
determining a significance of at least one active channel in said conference.
11. The method of claim 10, wherein said determining a first participant from said list that is speaking during said sample includes identifying a first participant speaking on said at least one active channel during said sample.
12. The method of claim 1, wherein said data indicative of said first participant includes data indicative of a device associated with said first participant.
13. The method of claim 1, wherein said data indicative of said first participant includes data indicative of a channel associated with said participant.

14. The method of claim 1, wherein said sample includes data from multiple active channels associated with said conference.
15. The method of claim 1, wherein said determining a first participant from said list that is speaking during said sample includes determining a first participant from a plurality of participants that are aggregated on a channel.
16. The method of claim 1, wherein said data indicative of said sample has a different sample size than said data indicative of said first participant.
17. A system for indicating a speaker during a conference, comprising:
a network;
at least one client device operably coupled to said network; and
a server operably coupled to said network, said server adapted to determine a list of participants in a conference; determine a sample from said conference; determine a first participant from said list that is speaking during said sample; determine a second participant from said list that is speaking during said sample; provide data indicative of said sample; provide data indicative of said first participant and said second participant; display a first graphic indication that said first participant is speaking, wherein the first graphic indication further indicates a first level of activity; and display a second graphic indication that said second participant is speaking, wherein the second graphic indication further indicates a second level of activity, wherein the first level of activity is different than the second level of activity, and wherein the second graphic indication is displayed at a same time as the first graphic indication, wherein the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.
18. The system of claim 17, wherein said server is adapted to determine an active channel associated with said conference.
19. (Cancelled)

20. The system of claim 17, wherein said client device is adapted to display an indication of said participant.

21. The system of claim 17, wherein said client device is adapted to display a level of activity of said participant in said sample.

22. A system for indicating a speaker during a conference, comprising:

a processor;

a communication port coupled to said processor and adapted to communicate with at least one device; and

a storage device coupled to said processor and storing instructions adapted to be executed by said processor to:

determine a list of participants in a conference;

determine a sample from said conference;

determine a first participant from said list that is speaking during said sample;

determine a second participant from said list that is speaking during said sample;

during said sample;

provide data indicative of said sample;

provide data indicative of said first participant and said second participant;

and

display a first graphic indication that said first participant is speaking,

wherein the first graphic indication further indicates a first level of activity;

display a second graphic indication that said second participant is speaking, wherein the second graphic indication further indicates a second level of activity, wherein the first level of activity is different than the second level of activity, and wherein the second graphic indication is displayed at a same time as the first graphic indication, wherein the first graphic indication comprises an icon having a first size based on the first level of activity,

and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

23. An article of manufacture comprising:

a computer readable medium having stored thereon instructions which, when executed by a processor, cause said processor to:

determine a list of participants in a conference;

determine a sample from said conference;

determine a first participant from said list that is speaking during said sample;

determine a second participant from said list that is speaking during said sample;

provide data indicative of said sample;

provide data indicative of said first participant and said second participant; and

display a first graphic indication that said first participant is speaking, wherein the

first graphic indication further indicates a first level of activity;

display a second graphic indication that said second participant is speaking,

wherein the second graphic indication further indicates a second level of activity, wherein the first level of activity is different than the second level of activity, ~~and~~ wherein the second graphic indication is displayed at a same time as the first graphic indication, wherein the first graphic indication comprises an icon having a first size based on the first level of activity, and wherein the second graphic indication comprises an icon having a second size based on the second level of activity.

APPENDIX B - EVIDENCE

No evidence is being submitted with this Appeal Brief (*i.e.*, this appendix is empty).

APPENDIX C - RELATED PROCEEDINGS

No prior or pending appeals, interferences, or judicial proceedings are known to Appellant, Appellant's legal representative, or assignee, which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal. Therefore, there are no copies of decisions rendered by a court or the Board to attach (*i.e.*, this appendix is empty).